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PTO/SB/64a (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR INTERNATIONAL FILING (37 CFR 1.137(f))		Docket Number (Optional) 8217
First named inventor: Wade C. Patterson		
Application No.: 10/035,959		Art Unit: 3754
Filed: October 23, 2001		Examiner: Eric S. Keasel
Title: APPARATUS AND METHOD OF AUTOMATIC DATA TRANSMISSION		
Attention: Office of Petitions Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450 FAX (703) 872-9306		
NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.		
The above-identified application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational international treaty that requires publication of applications eighteen months after filing. The date of abandonment is the day after the expiration date of the forty-five (45) day period set in 35 U.S.C. 122(b)(2)(B)(iii).		
PURSUANT TO 37 CFR 1.137(f), APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION UNDER 37 CFR 1.137(b)		
1. Petition fee <input type="checkbox"/> Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27. <input checked="" type="checkbox"/> Other than small entity - fee \$ <u>1,370.00</u> (37 CFR 1.17(m))		
2. Notice of Foreign or International Filing (35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c)) Subsequent to the filing of the above-identified application, an application was filed in another country, or under a multinational international treaty (e.g., filed under the Patent Cooperation Treaty), that requires publication of applications eighteen months after the filing. The filing date of the subsequently filed foreign or international application is <u>October 23, 2001</u> .		
10/19/2004	HALI11	00000022 10035959

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[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

STATEMENT: The entire delay in filing the required notice of a foreign or international filing from the due date for the required notice until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

_____ Signature	_____ October 15, 2004 Date
_____ Leslie S. Miller Typed or printed name	_____ 30,662 Registration Number, if applicable
_____ 1000 North Water Street, Suite 2100 Address	_____ 414-298-8321 Telephone Number
_____ Milwaukee, WI 53202 Address	

Enclosures: ☒ Fee Payment
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.
- ☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

October 15, 2004
Date


Signature

Leslie S. Miller
Typed or printed name of person signing certificate



I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to Attention: Office of Petitions, Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on October 15, 2004.
Reinhart Boerner Van Deuren s.c.

PATENT APPLICATION

By: _____

Leslie S. Miller

Date: October 15, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

GROUP ART UNIT: 3754

EXAMINER: ERIC S. KEASEL

In re application of: Wade C.)
Patterson and Thomas J. Watson)
Application No: 10/035,959)
Filed: 10/23/2001)
Attorney Docket No.: 8217)

For: APPARATUS AND METHOD
FOR WIRELESS DATA
TRANSMISSION

Commissioner for Patents
Attention: Office of Petitions
Mail Stop Petition
P.O. Box 1450
Alexandria, VA 22313-1450

October 15, 2004

STATEMENT ACCOMPANYING PETITION FOR REVIVAL
OF AN APPLICATION FOR PATENT ABANDONED
FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN
OR INTERNATIONAL FILING UNDER 37 C.F.R. 1.137(f)

Sir:

In an Office Action dated June 15, 2004, the Examiner noted that Applicants' nonpublication request in the present patent application was not rescinded, that the

invention disclosed in the present patent application is the subject of WO 2002/061955, EP 1330882, and AU 2002249880, and that there was no notification of the foreign (or multilateral) filings. Accordingly, it was indicated that the application would be held abandoned, and that Applicants should file a petition under 37 CFR 1.137(b)(f).

Applicants' undersigned attorney has taken over the prosecution of the present patent application and a number of other related patent applications, and recently reviewed and began a response to the June 15, 2004, Office Action in the present patent application. Following a review of the patent application and the foreign (and multilateral) filings referenced by the Examiner, it appears that the Examiner is indeed correct. Review of a number of related patent applications which are commonly owned and directed to related subject matter, as well two issued patents which are also commonly owned and directed to related subject matter, have the same error in that they also requested nonpublication and failed to rescind the nonpublication request in a timely fashion.

Applicants' undersigned attorney has spoken with members of the U.S. Patent and Trademark Office Office of Petitions, including Mr. Jayprakash N. Gandhi, Mr. Paul A. Shanoski, and Mr. Mark O. Polutta regarding the various cases. Applicants greatly appreciate the kind assistance afforded by these individuals. It has come to the attention of Applicants' undersigned attorney in the course of these discussions that a number of attorneys and firms have made such mistakes.

The failure to rescind the request not to publish was inadvertent and not intended by Applicants. A copy of a Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign of International Filing (Form PTO/SB/64a) and the requisite fee of \$1,370.00 is enclosed herewith. The U.S. Patent and Trademark Office is also authorized to charge any additional fee(s) required to restore the present patent application to pending status, or to credit any overpayment, to Deposit Account No. 18-0882.

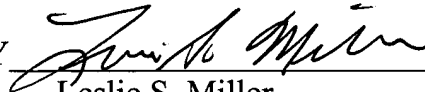
Simultaneously with the filing of this petition, an Amendment B and an extension of time of one month in responding to the Office Action of June 15, 2004, are being filed. Since this Petition must be sent to a different mail stop than the Amendment B and extension of time, they are not enclosed herewith, but rather are being sent separately. It is believed that the extension of time included with Amendment B is sufficient to extend the time for response for this Petition for Revival as well. Should that be incorrect, an extension of one month is being requested for the filing of this Petition to Revive, and the U.S. Patent and Trademark Office is also authorized to charge the fee for that extension to Deposit Account No. 18-0882.

Accordingly, Applicants respectfully request favorable consideration of the Petition to Revive and restoration of the present patent application to pending status. Should the Office of Petitions believe that the restoration of the present patent application

to pending status may be expedited by a telephonic discussion, the Office of Petitions is requested to call Applicants' undersigned attorney at the number listed below.

Respectfully submitted:

BY



Leslie S. Miller

Attorney for Applicants

Registration No. 30,662

Reinhart Boerner Van Deuren s.c.
1000 North Water Street, Suite 2100
Milwaukee, WI 53202

(414) 298-8321

Customer No. 22922

MW/1134463



TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission	Application Number	10/035,959
	Filing Date	10/23/2001
	First Named Inventor	Wade C. Patterson
	Art Unit	3754
	Examiner Name	Eric S. Keasel
Attorney Docket Number		8217

ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input checked="" type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Statement Accompanying Petition for Revival
<div>Remarks</div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Leslie S. Miller, Esq. Reinhart Boerner Van Deuren s.c.		
Signature			
Date	October 15, 2004		

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Leslie S. Miller		
Signature		Date	October 15, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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FEE TRANSMITTAL

for FY 2005

Effective 01/2004. Patent fees are subject to annual revision.

Significant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 1,370.00

Complete if Known

Application Number 10/035,959
Filing Date 10/23/2001
First Named Inventor Wade C. Patterson
Examiner Name Eric S. Keasel
Art Unit 3754
Attorney Docket No. 8217

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit card ☐ Money ☐ Other ☐ None
Order

☐ Deposit Account:

Deposit Account Number 18-0882

Deposit Account Name Reinhart Boerner Van Deuren s.c.

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Credit any overpayments
☒ Charge any additional fee(s) or any underpayment of fee(s) except for the issue fee
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	790	2001	395	Utility filing fee	
1002	350	2002	175	Design filing fee	
1003	550	2003	275	Plant filing fee	
1004	790	2004	395	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1)

(\$) 0

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims -20 ** = 0 X = 0
Independent Claims -3 ** = 0 X = 0
Multiple Dependent X = 0

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	88	2201	44	Independent claims in excess of 3
1203	300	2203	150	Multiple dependent claim, if not paid
1204	88	2204	44	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2)

(\$) 0

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	430	2252	215	Extension for reply within second month	
1253	980	2253	490	Extension for reply within third month	
1254	1,530	2254	765	Extension for reply within fourth month	
1255	2,080	2255	1,040	Extension for reply within fifth month	
1401	340	2401	170	Notice of Appeal	
1402	340	2402	170	Filing a brief in support of an appeal	
1403	300	2403	150	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,370	2453	685	Petition to revive - unintentional	1,370
1501	1,370	2501	685	Utility issue fee (or reissue)	
1502	490	2502	245	Design issue fee	
1503	660	2503	330	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17 (q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) _____


*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

(\$) 1,370.00

SUBMITTED BY

Complete (if applicable)

Name (Print/Type)	Leslie S. Miller	Registration No. (Attorney/Agent)	30,662	Telephone	414-298-8321
Signature		Date	October 15, 2004		

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